

**AGREEMENT BETWEEN LAKE COUNTY, FLORIDA**  
**AND**  
**LUKE BROTHERS, INC.**  
**FOR**  
**ROADSIDE/RIGHT OF WAY TREE TRIMMING AND RELATED SERVICES**  
**ITB 14-0438A**

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This is an Agreement between Lake County, Florida, a political subdivision of the State of Florida, hereinafter referred to as the COUNTY, by and through its Board of County Commissioners, and Luke Brothers, Inc., a Florida corporation, hereinafter the CONTRACTOR.

### **Recitals**

**WHEREAS**, the COUNTY has publicly submitted for procurement of services for a firm to assist the COUNTY with removing encroaching vegetation which impedes the traveling public and to provide road right of way maintenance activities within the right of way at specific locations throughout Lake County; and

**WHEREAS**, the CONTRACTOR desires to perform such services subject to the terms of this Agreement; and

**NOW, THEREFORE, IN CONSIDERATION** of the mutual terms, understandings, conditions, promises, covenants and payment hereinafter set forth, and intending to be legally bound, the parties hereby agree as follows:

### **Article 1. Recitals**

1.1 The foregoing recitals are true and correct and incorporated herein by reference.

### **Article 2. Purpose**

2.1 The purpose of this Agreement is for the CONTRACTOR to remove encroaching vegetation which impedes the traveling public and to provide road right of way maintenance activities within the rights of way at specific locations throughout Lake County, to include but not be limited to tree trimming and related services.

### **Article 3. Scope of Professional Services**

3.1 Projects Assigned. On the terms and conditions set forth in this Agreement, COUNTY hereby engages CONTRACTOR to assist the COUNTY with the services identified in the Specific Scope of Services attached hereto and incorporated herein by reference as **Exhibit A**, and the Public Works Additional Terms and Conditions, identified in **Exhibit B**, attached hereto and incorporated herein by reference. CONTRACTOR is hereby assigned the following projects:

- \* County Road 25
- \* County Road 452
- \* County Road 33

CONTRACTOR shall be paid in accordance with the pricing given as shown on the Pricing Section incorporated herein by reference as **Exhibit C**. CONTRACTOR agrees and acknowledges that in

the event the CONTRACTOR cannot meet the COUNTY'S specifications, including but not limited to, time for completion, cost for individual project etc., COUNTY reserves the sole right to offer the individual project to other contractors retained by the COUNTY.

3.2 Additional Users. This section intentionally deleted.

3.3 Time of the Essence. CONTRACTOR acknowledges that time is of the essence in carrying out CONTRACTOR'S responsibilities under this Agreement. The CONTRACTOR shall complete the Specific Scope of Services identified in **Exhibit A** no later than sixty (60) days from the date the Notice to Proceed is issued. If the CONTRACTOR fails to complete the Scope of Services by the specified time, the COUNTY may apply liquidated damages. Liquidated damages, if applied, shall be imposed from the first day the CONTRACTOR fails to stay on schedule until the CONTRACTOR is back on schedule. Any additional cost incurred by the COUNTY because of the CONTRACTOR'S failure to complete the Scope of Services as assigned will be deducted from the CONTRACTOR'S invoice.

3.4 General Conditions. CONTRACTOR shall abide by all terms and conditions contained within the Public Works Additional Terms and Conditions as shown in **Exhibit B**.

3.5 Licenses, Permits and Fees.

A. CONTRACTOR shall comply, at its own expense, with all federal, state and local laws, codes, statutes, ordinances, rules, administrative orders, regulations and requirements applicable to the completion of the Scope of Services. CONTRACTOR shall obtain and pay for all licenses, permits and inspection fees required, if any, to complete the Scope of Services. Damages, penalties or fines imposed on the COUNTY or the CONTRACTOR for failure to obtain required licenses, permits or fines shall be borne by the CONTRACTOR.

B. CONTRACTOR shall maintain all appropriate professional licenses and insurance throughout the term of this Agreement.

3.6 Contractor's Personnel and Equipment. CONTRACTOR shall provide competent, suitable, and qualified personnel to perform the work as required by the specifications. The CONTRACTOR shall be fully responsible for the performance and completion of all work under this contract. The CONTRACTOR shall, at all times maintain good discipline and order at the work site. The CONTRACTOR shall maintain a dress code for its employees with a minimum of shirt, safety vest, shorts/pants and shoes in decent condition at all times while the work is being performed. The CONTRACTOR shall furnish all labor, equipment, fuel, materials, any other items needed to perform all operations necessary to complete this work in strict accordance with these specifications, any applicable drawings, and subject to the terms and conditions of the contract.

3.7 Subcontractors and Suppliers. If subcontractors or materials suppliers are to be used by the CONTRACTOR, the CONTRACTOR shall provide a listing of such subcontractors and/or materials suppliers with the CONTRACTOR'S acceptance of the Notice to Proceed. The listing shall include the name of each subcontractor/material supplier proposed, the work or the material the subcontractor/material supplier will provide, and the percentage of the overall project.

#### **Article 4. Payment**

4.1 **Payment.** CONTRACTOR Pricing shall be as specified in **Exhibit C**. Payment for each roadway will be based upon the LUMP SUM cost agreed upon and identified in the Pricing exhibit. Neither progress payment nor partial or entire use or occupancy of the project by the COUNTY will constitute an acceptance of work not in accordance with the contract documents. In no event shall this contract exceed **\$51,750.00**, unless a duly authorized change order is approved in accordance with the COUNTY'S Procurement Policies and Procedures.

4.2 **Additional Services.** Intentionally deleted.

4.3 **Invoices.** Invoices shall be submitted within thirty (30) days of completion of a roadway. All invoices shall contain the purchase order number, invoice date, itemized work, date of service specific to each location, dump tickets for litter, person to contact and their phone number for billing questions and location of delivery or service, and confirmation of acceptance of the goods or services by the appropriate COUNTY representative. Failure to submit invoices in the prescribed manner may delay payment, or payment may be denied if the COUNTY cannot verify the completion of the work due to delay, and the CONTRACTOR may be considered in default of contract and its contract may be terminated. Payments shall be tendered in accordance with the Florida Prompt Payment Act, Part VII, Chapter 218, Florida Statutes.

Address for invoicing: Attn: Lori Conway, Road Operations Division Manager, Lake County Public Works, Post Office Box 7800, Tavares, FL 32778. All invoices shall be supplemented with statements showing the proper disposal of the litter picked up each cycle.

4.4 **Price Redetermination – Fuel.** Intentionally deleted.

4.5 **Certification of Payment to Subcontractors/Materials Suppliers.** Prior to final payment to the CONTRACTOR on projects which **DO NOT** require a performance and payment bond, CONTRACTOR shall provide *Certification of Payment to Subcontractors/Materials Suppliers* before the invoice is processed and paid.

4.6 **Federal or State Funding.** IF ANY PROJECT GIVEN TO THE CONTRACTOR UNDER THIS AGREEMENT IS ONE IN WHICH FEDERAL OR STATE FUNDS SHALL BE USED, THE CONTRACTOR IS HEREBY INFORMED THAT PAYMENT SHALL BE CONTINGENT UPON RECEIPT OF SAID FEDERAL OR STATE FUNDS OR APPROVAL. ADDITIONALLY, PAYMENT SHALL BE CONTINGENT UPON THE CONTRACTOR COMPLETING ALL REQUIRED FORMS AND DOCUMENTATION AS IS NECESSARY IN ORDER TO OBTAIN SUCH FEDERAL OR STATE FUNDING OR APPROVAL.

4.7 **E-Verify.** CONTRACTOR acknowledges and agrees that CONTRACTOR shall utilize the U.S. Department of Homeland Security's E-Verify system in accordance with the terms governing use of the system to confirm the employment eligibility of:

- A. All persons employed by the CONTRACTOR during the term of this Agreement to perform employment duties within Lake County; and
- B. All persons, including subcontractors, assigned by the CONTRACTOR to perform work pursuant to the contract.

4.8 Local Office. Intentionally deleted.

#### **Article 5. County Responsibilities**

- 5.1 The COUNTY shall provide a Project Representative.
- 5.2 COUNTY shall pay in accordance with the Florida Prompt Payment Act.
- 5.3 The COUNTY retains the right to inspect all work to verify compliance with the contract specifications.

#### **Article 6. Special Terms and Conditions**

6.1 Term and Renewal. The term of this Agreement shall be for a period not to exceed one hundred twenty (120) calendar days, with all work to be completed within sixty (60) days of the date the Notice to Proceed is issued.

6.2 Termination. This Agreement may be terminated by the COUNTY upon thirty (30) days advance written notice to the other party; but if any work or service/task hereunder is in progress but not completed as of the date of termination, then this Agreement may be extended upon written approval of the COUNTY until said work or service(s)/task(s) is completed and accepted.

A. Termination for Convenience. In the event this Agreement is terminated or cancelled upon the request and for the convenience of the COUNTY with the required thirty (30) day advance written notice, COUNTY shall reimburse CONTRACTOR for actual work satisfactorily completed.

B. Termination for Cause. Termination by the COUNTY for cause, default, or negligence on the part of CONTRACTOR shall be excluded from the foregoing provision. Termination costs, if any, shall not apply. The thirty (30) day advance notice requirement is waived in the event of termination for cause.

C. Termination Due to Unavailability of Funds in Succeeding Fiscal Years. When funds are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal year, this Agreement shall be canceled and the CONTRACTOR shall be reimbursed for the reasonable value of any non-recurring costs incurred but not amortized in the price of the supplies or services/tasks delivered under this Agreement.

6.3 Assignment. This Agreement shall not be assigned except with the written consent of the COUNTY'S Procurement Services Manager. No such consent shall be construed as making the

COUNTY a party to the assignment or subjecting the COUNTY to liability of any kind to any assignee. No assignment shall under any circumstances relieve the CONTRACTOR of liability and obligations under this Agreement and all transactions with the COUNTY must be through the CONTRACTOR. Additionally, unless otherwise stipulated herein, the CONTRACTOR shall notify and obtain prior written consent from the COUNTY prior to being acquired or subject to a hostile takeover. Any acquisition or hostile takeover without the prior consent of the COUNTY may result in termination of this Agreement for default.

6.4 Insurance. CONTRACTOR shall purchase and maintain at all times during the term of this Agreement, without cost or expense to the COUNTY, policies of insurance from a company or companies authorized to do business in the State of Florida, and which are acceptable to the COUNTY, insuring the CONTRACTOR against any and all claims, demands or causes of action whatsoever, for injuries received or damage to property relating to the performance of duties, services and/or obligations of the CONTRACTOR under the terms and provisions of this Agreement. The CONTRACTOR is responsible for timely provision of certificate(s) of insurance to the COUNTY at the certificate holder address evidencing conformance with the Agreement requirements, and the CONTRACTOR shall not commence work under the Agreement until COUNTY has received an acceptable certificate or certificates of insurance evidencing conformance with the Agreement requirements. Such policies of insurance and confirming certificates of insurance shall insure the CONTRACTOR is in accordance with the following minimum limits and coverage:

- (i) General Liability insurance on forms no more restrictive than the latest edition of the Occurrence Form Commercial General Liability policy (CG 00 01) of the Insurance Services Office or equivalent without restrictive endorsements, with the following minimum limits and coverage:

|                                   |                       |
|-----------------------------------|-----------------------|
| Each Occurrence/General Aggregate | \$1,000,000/2,000,000 |
| Products-Completed Operations     | \$2,000,000           |
| Personal & Adv. Injury            | \$1,000,000           |
| Fire Damage                       | \$50,000              |
| Medical Expense                   | \$5,000               |
| Contractual Liability             | Included              |

- (ii) Automobile liability insurance, including owned, non-owned and hired autos with the following minimum limits and coverage:

|                       |             |
|-----------------------|-------------|
| Combined Single Limit | \$1,000,000 |
|-----------------------|-------------|

- (iii) Workers' compensation insurance based on proper reporting of classification codes and payroll amounts in accordance with Chapter 440, Florida Statutes, and/or any other applicable law requiring workers' compensation (Federal, maritime, etc.). If not required by law to maintain workers' compensation insurance, the CONTRACTOR must provide a notarized statement that if any of CONTRACTOR'S employees are injured, CONTRACTOR will not hold the COUNTY responsible for any payment or compensation.

- (iv) Employers Liability insurance with the following minimum limits and coverage:

|                       |             |
|-----------------------|-------------|
| Each Accident         | \$1,000,000 |
| Disease-Each Employee | \$1,000,000 |
| Disease-Policy Limit  | \$1,000,000 |

(v) Professional liability and/or specialty insurance (medical malpractice, engineers, architect, consultant, environmental, pollution, errors and omissions, etc.) as applicable, with minimum limits of \$1,000,000 and annual aggregate of \$2,000,000.

(vi) **Lake County, A Political Subdivision Of The State Of Florida, and the Board Of County Commissioners**, shall be named as additional insured as their interest may appear on all applicable liability insurance policies.

(vii) Certificates of insurance shall provide for a minimum of thirty (30) days prior written notice to the COUNTY of any change, cancellation or nonrenewal of the required insurance. It is the CONTRACTOR'S specific responsibility to ensure that any such notice is provided within the stated timeframe to the certificate holder.

(viii) Certificates of insurance shall identify the RFP number in the Description of Operations section of the Certificate.

(ix) The Certificate holder shall be: LAKE COUNTY, A POLITICAL SUBDIVISION OF THE STATE OF FLORIDA, AND THE BOARD OF COUNTY COMMISSIONERS, P.O. BOX 7800, TAVARES, FL 32778-7800

(x) Certificates of insurance shall evidence a waiver of subrogation in favor of the COUNTY, that coverage shall be primary and noncontributory, and that each evidenced policy includes a Cross Liability or Severability of Interests provision, with no requirement of premium payment by the COUNTY.

(xi) CONTRACTOR shall be responsible for subcontractors and their insurance. Subcontractors are to provide certificates of insurance to the CONTRACTOR evidencing coverage and terms in accordance with the CONTRACTOR'S requirements.

(xii) All self-insured retentions shall appear on the certificate(s) and shall be subject to approval by the COUNTY. At the option of the COUNTY, the insurer shall reduce or eliminate such self-insured retentions, or the CONTRACTOR or subcontractor shall be required to procure a bond guaranteeing payment of losses and related claims expenses.

(xiii) The COUNTY shall be exempt from, and in no way liable for, any sums of money, which may represent a deductible or self-insured retention in any insurance policy. The payment of such deductible or self-insured retention shall be the sole responsibility of the CONTRACTOR and/or subcontractor providing such insurance.

(xiv) Failure to obtain and maintain such insurance as set forth above will be considered a breach of contract and may result in termination of this Agreement for default.



(xv) Neither approval by the COUNTY of any insurance supplied by the CONTRACTOR or Subcontractor(s), nor a failure to disapprove that insurance, shall relieve the CONTRACTOR or Subcontractor(s) of full responsibility for liability, damages, and accidents as set forth herein.

(xvi) If it is not possible for the CONTRACTOR to certify compliance, on the certificate of insurance, with all of the above requirements, then the CONTRACTOR is required to provide a copy of the actual policy endorsement(s) providing the required coverage and notification provisions.

6.5 Indemnity. CONTRACTOR shall indemnify and hold COUNTY and its agents, officers, commissioners or employees harmless from any damages resulting from failure of CONTRACTOR to take out and maintain the above insurance. Additionally, CONTRACTOR agrees for good and valuable consideration in the amount of ten dollars (\$10.00) to indemnify, and hold the Board of County Commissioners, Lake County, Florida, and its officers, commissioners, employees and agents free and harmless from and against any and all losses, penalties, damages, settlements, costs, charges, professional fees or other expenses or liabilities resulting from the negligent act, error or omission of CONTRACTOR, its agents, employees or representative, in the performance of CONTRACTOR'S duties set forth in this Agreement.

6.6 Independent Contractor. CONTRACTOR and all its employees agree that they shall be acting as an independent contractor and shall not be considered or deemed to be an agent, employee, joint venture, or partner of the COUNTY. CONTRACTOR shall have no authority to contract for or bind COUNTY in any manner and shall not represent itself as an agent of the COUNTY or as otherwise authorized to act for or on behalf of COUNTY. Additionally, CONTRACTOR warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for CONTRACTOR to solicit or secure this Agreement and that it has not paid or agreed to pay any person, company, corporation, individual, or firm other than a bona fide employee working solely for CONTRACTOR any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement.

6.7 Return of Materials. Upon the request of the COUNTY, but in any event upon termination of this Agreement, CONTRACTOR shall surrender to the COUNTY all memoranda, notes, records, drawings, manuals, computer software, and other documents or materials pertaining to the services hereunder, that were furnished to the CONTRACTOR by the COUNTY pursuant to this Agreement.

6.8 No Claim for Damages. **NO CLAIM FOR DAMAGES OR ANY CLAIM OTHER THAN FOR AN EXTENSION OF TIME SHALL BE MADE OR ASSERTED AGAINST THE COUNTY BY REASON OF ANY DELAYS:** No interruption, interference, inefficiency, suspension or delay in the commencement or progress of the work from any cause whatsoever, including delays caused by unfavorable weather conditions, shall relieve the CONTRACTOR of its duty to perform or give rise to any right to damages or additional compensation from the COUNTY. The CONTRACTOR expressly acknowledges and agrees that the CONTRACTOR shall receive no damages for delay. The CONTRACTOR'S sole remedy, if any, against the COUNTY shall be the right to seek an extension to the contract time. However, this provision shall

not preclude recovery or damages by the CONTRACTOR for hindrance or delay due solely to the fraud, bad faith or active interference on the part of the COUNTY or its agents. Otherwise, the CONTRACTOR shall be entitled to extensions of the contract time as the sole and exclusive remedy for such resulting delay, in accordance with and to the extent specifically provided above.

6.9 Retaining Other Contractors. Nothing herein shall be deemed to preclude the COUNTY from retaining the services of other persons or entities undertaking the same or similar services as those undertaken by the CONTRACTOR or from independently developing or acquiring materials or programs that are similar to, or competitive with, the services provided under this Agreement.

6.10 Accuracy. The CONTRACTOR is responsible for the professional quality, technical accuracy, timely completion and coordination of all the services furnished hereunder. The CONTRACTOR shall, without additional compensation, correct or revise any errors, omissions or other deficiencies in resulting from the services provided herein.

6.11 Additional Services. Services not specifically identified in this Agreement may be added to the Agreement upon execution of a written amendment.

6.12 Purchase of Other Items. While the COUNTY has listed all major items within this contract which are utilized by COUNTY departments in conjunction with their operations, there may be ancillary items that must be purchased by the COUNTY during the term of this contract. Under these circumstances, a COUNTY representative will contact the CONTRACTOR to obtain a price quote for the ancillary items. If there are multiple contractors on the contract, the COUNTY representative may also obtain price quotes from these contractors. The COUNTY reserves the right to award these ancillary items to the primary contractor, another contractor based on the lowest price quoted, or to acquire the items through a separate solicitation.

6.13 Public Records. Pursuant to Section 119.0701, Florida Statutes, the CONTRACTOR shall comply with the Florida Public Records' laws, and shall:

- A. Keep and maintain public records that ordinarily and necessarily would be required by the COUNTY in order to perform the services identified herein.
- B. Provide the public with access to public records on the same terms and conditions that the COUNTY would provide the records and at a cost that does not exceed the cost provided for by law.
- C. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law.
- D. Meet all requirements for retaining public records and transfer, at no cost, to the COUNTY all public records in possession of the CONTRACTOR upon termination of the contract and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the COUNTY in a format that is compatible with the information technology systems of the COUNTY.

Failure to comply with this section shall be deemed a breach of the contract and enforceable as set forth in Section 119.0701, Florida Statutes.

6.14 Copyrights. Any copyright derived from this Agreement shall belong to the author. The author and the CONTRACTOR shall expressly assign to the COUNTY nonexclusive, royalty free rights to use any and all information provided by the CONTRACTOR in any deliverable and/or report for the COUNTY'S use which may include publishing in COUNTY documents and distribution as the COUNTY deems to be in the COUNTY'S best interests. If anything included in any deliverable limits the rights of the COUNTY to use the information, the deliverable shall be considered defective and not acceptable and the CONTRACTOR will not be eligible for any compensation.

6.15 Public Entity Crimes. A person or affiliate who has been placed on the convicted CONTRACTOR list following a conviction of a public entity crime may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity in excess of the threshold amount provided in Section 287.017, Florida Statutes, for Category Two for a period of thirty-six (36) months from the date of being placed on the convicted CONTRACTOR list.

6.16 Right to Audit.

A. The County reserves the right to require CONTRACTOR to submit to an audit by any auditor of the COUNTY'S choosing. CONTRACTOR shall provide access to all of its records, which relate directly or indirectly to this Agreement at its place of business during regular business hours. CONTRACTOR shall retain all records pertaining to this Agreement and upon request make them available to the COUNTY for five (5) years following expiration of the Agreement. CONTRACTOR agrees to provide such assistance as may be necessary to facilitate the review or audit by the COUNTY to ensure compliance with applicable accounting and financial standards.

B. All items sold to the COUNTY under this Contract are subject to post sale audit adjustment. In the event an audit indicates that the CONTRACTOR has not honored its quoted price lists and discounts, the CONTRACTOR shall be liable for any and all overage charges, and this Agreement may be terminated for cause at the COUNTY'S option.

## **Article 7. Miscellaneous Provisions**

7.1 This Agreement is made under, and in all respects shall be interpreted, construed, and governed by and in accordance with the laws of the State of Florida. Venue for any legal action resulting from this Agreement shall lie in Lake County, Florida.

7.2 Neither party may assign any rights or obligations under this Agreement to any other party unless specific written permission from the other party is obtained.

7.3 The captions utilized in this Agreement are for the purposes of identification only and do not control or affect the meaning or construction of any of the provisions hereof.

7.4 This Agreement shall be binding upon and shall inure to the benefit of each of the parties and of their respective successors and permitted assigns.

7.5 This Agreement may not be amended, released, discharged, rescinded or abandoned, except by a written instrument duly executed by each of the parties hereto.

7.6 The failure of any party hereto at any time to enforce any of the provisions of this Agreement will in no way constitute or be construed as a waiver of such provision or of any other provision hereof, nor in any way affect the validity of, or the right thereafter to enforce, each and every provision of this Agreement.

7.7 During the term of this Agreement CONTRACTOR assures COUNTY that it is in compliance with Title VII of the 1964 Civil Rights Act, as amended, and the Florida Civil Rights Act of 1992, in that CONTRACTOR does not on the grounds of race, color, national origin, religion, sex, age, disability or marital status, discriminate in any form or manner against CONTRACTOR employees or applicants for employment. CONTRACTOR understands and agrees that this Agreement is conditioned upon the veracity of this statement of assurance.

7.8 The invalidity or unenforceability of any provision of this Agreement shall not affect the other provisions hereof, and this Agreement shall be construed in all respects as if such invalid or unenforceable provisions were omitted.

7.9 Wherever provision is made in this Agreement for the giving, service or delivery of any notice, statement or other instrument, such notice shall be in writing and shall be deemed to have been duly given, served and delivered, if delivered by hand or mailed by United States registered or certified mail or sent by facsimile addressed as follows:

If to CONTRACTOR

Alexandra Hill, Controller  
5532 Auld Lane  
Holiday, FL 34690

If to COUNTY:

Road Operations Division  
Post Office Box 7800  
Tavares, FL 32778

cc: County Manager  
Lake County Administration Bldg.  
Post Office Box 7800  
Tavares, Florida 32778-7800

## Article 8. Scope of Agreement

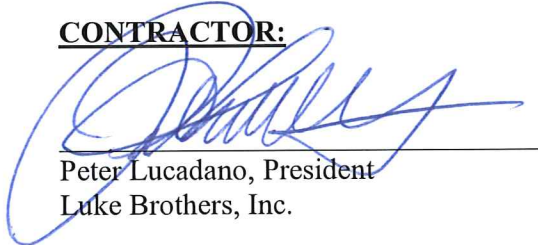
8.1 This Agreement is intended by the parties hereto to be the final expression of their Agreement, and it constitutes the full and entire understanding between the parties with respect to the subject hereof, notwithstanding any representations, statements, or agreements to the contrary heretofore made. Any items not covered under this contract will need to be added via written addendum, and pricing negotiated based on final specifications.

8.2 This Agreement contains the following Exhibits, all of which are incorporated herein:


|           |  |
|-----------|--|
| Exhibit A | Specific Scope of Services                   |
| Exhibit B | Public Works Additional Terms and Conditions |
| Exhibit C | Pricing                                      |

**IN WITNESS WHEREOF**, the parties hereto have made and executed this Agreement on the respective dates under each signature: COUNTY through its Board of County Commissioners, signing by and through its Chairman, authorized to execute same by Board Action on the 26 day of August, 2014 and by CONTRACTOR through its duly authorized representative.

**CONTRACTOR:**

  
Peter Lucadano, President  
Luke Brothers, Inc.

ATTEST:

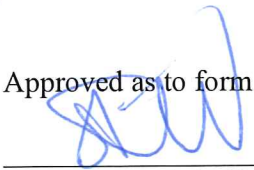
  
Neil Kelly, Clerk  
of the Board of County  
Commissioners of Lake  
County, Florida

LAKE COUNTY, through its  
BOARD OF COUNTY COMMISSIONERS

  
Jimmy Conner  
Chairman

This 2 day of Sept., 2014.

Approved as to form and legality:

  
Sanford A. Minkoff  
County Attorney

**EXHIBIT A**  
**SCOPE OF SERVICES**

The purpose of this solicitation is to establish a contract(s) to address encroaching vegetation which impedes the traveling public and road right of way maintenance activities within the rights of way at specific locations throughout Lake County. The scope of work shall include, but not be limited to, tree trimming, brush clearing, debris cleanup and disposal, and all other related services.

**GENERAL REQUIREMENTS**

The vendor shall be well versed and experienced with the current processes to be able to complete the work in accordance with the specifications within this document and as directed by the Project Manager. The vendor shall have the ability and the equipment to complete all work within the specified time.

The vendor shall base the cost for this scope of work on a lump sum price per road/project as established in Section 4, Pricing/Certifications/Signatures, Pricing Section. This price shall be all inclusive to include all items, such as but not limited to, Maintenance of Traffic (MOT), equipment, materials and labor to satisfactorily complete the work in accordance with contract specifications. No change orders, modification of quantities, or addition of line items will be provided after acceptance is provided for the performance of work under the original scope.

The vendor shall submit a schedule to the Project Manager by email (preferred method) or fax within twenty-four hours of the purchase order issue date. This schedule shall show the date that the work is to be started and tentative completion dates. If the vendor has to change the schedule or is aware of an upcoming schedule change, they shall contact the Project Manager within twenty-four (24) hours for prior approval. The vendor shall maintain coordination with the Project Manager at all times.

The vendor shall notify the Project Manager upon completion of each individual road/project. The Project Manager shall make final inspection within five (5) business days after receipt of notification.

If the vendor anticipates having to enter private property to complete the work, they shall have Attachment 4, Right of Entry Statement, completed and signed by the property owner. The fully executed form shall be submitted to the Project Manager prior to beginning any work on private property.

The vendor shall be fully responsible for maintaining in good condition all items that are not being removed, such as but not limited to, existing trees, turf and shrubs situated within the designated right of way and on private property adjacent to work areas.

The use of climbing irons, spurs and spikes shall not be allowed for this operation.

**TECHNICAL REQUIREMENTS**

## 1. Pruning/Trimming Standards

All work shall be in accordance with the International Arborist Association (ISA) Pruning Standards. The tree pruning shall only be done by employees trained and skilled in this class of work. Work shall be done in accordance with recognized and approved principles of modern arboriculture methods with emphasis on tree health and symmetry. The trim contour will be held continuous throughout the work limits to give a uniform appearance.

All overhead clearance trimming for roadways shall be a minimum of eighteen (18) feet above the roadway. This shall be measured from the highest point of the pavement.

Side clearance trimming for roadways shall be a minimum of ten (10) feet from the edge of pavement, unless otherwise specified in the Scope of Services or as authorized by the Project Manager.

Overhead clearance trimming for sidewalks shall be nine (9) feet above the highest point of the sidewalk. There shall be an even taper to join the differences in trimming heights when they are sidewalks in conjunction with roadway trimming. The overhead clearance shall be for a minimum of four (4) feet behind the sidewalk to ten (10) feet from the edge of the roadway.

Side clearance trimming for sidewalks shall be four (4) feet from the back edge of the sidewalk.

All cuts shall be made just outside the branch collar whenever possible. The vendor shall avoid leaving long stubs even if this means going beyond the clearance trimming measurements.

All cuts shall be in a manner that will prevent free, rapid, and uncontrolled descent of the portion of the tree being removed.

If a large limb is to be removed, its weight shall first be reduced. This shall be done by making an undercut about twelve (12) to eighteen (18) inches from the limb's point of attachment. A second cut to remove the limb shall be completed at the top of the limb directly above or a few inches farther out from the undercut. The stub shall be removed after the weight of the limb has been eliminated. Any damage caused to a tree by the vendor shall be repaired at no cost and to the satisfaction of the Project Manager. If the tree dies due to the actions of the vendor, the vendor shall be required to promptly remove the dead tree at no cost to the County and replace the tree with one of equal diameter and growth, or to compensate the County for the loss of the tree in an amount determined by the County to be fair market value of the damaged tree.

A pruning cut that reduces the length of a branch or parent stem should bisect the angle between its branch bark ridge and an imaginary line perpendicular to the branch or stem.

## 2. Palm Pruning

Palm tree trimming shall be done in such a way that all palm fronds that are bending below a line parallel with the ground shall be removed from the tree. Any dead fronds shall be removed, whether or not they are below the line parallel to the ground. Any fronds that can be considered a sight distance problem shall be removed regardless of their height from the pavement or their alignment to the parallel line. Removal of the fronds shall be done in such a way as to not damage the tree. The cut shall be smooth and void of any signs of tearing or breaking.

Palm fronds removed shall be severed close to the petiole base without damaging living trunk tissue.

## 3. Brush Clearing

All underbrush, including but not limited to low growing shrubs, bushes, wild grasses, vines and weeds shall be removed within the determined work area. All immature trees less than six (6) inches in diameter shall be completely removed.

## 4. Site/Debris Cleanup

All debris that is created as part of this work becomes the property of the vendor and the vendor shall ensure that it is disposed of properly.

If the vendor chooses to utilize a chipper, it shall be done in such a way that the chips will be hauled off. At no time shall the vendor be allowed to leave any wood chips onsite.

The vendor shall rake and remove all branches that are greater than 1/4" in diameter. All other debris shall be blown or swept off the roadway to the side of the road in rural areas and shall be picked up in residential areas. No debris shall remain after the work has been completed.

## 5. Minimum Equipment Required

The vendor shall ensure all equipment used in performance of the contract on County property is in good, safe working order and properly maintained in order to protect the operator and the public. All equipment used by the vendor is subject to inspection by the Project Manager. Any equipment on site, which is deemed by the Project Manager to be inoperable, unsafe or improper for desired use, must be removed from the site by the vendor at his/her expense the same day of the County's determination.

The vendor shall furnish the following minimum equipment of a type and quantity to perform the work satisfactorily within the time specified herein:

- Bucket truck and/or man lift capable of reaching the required heights
- Chipper



- Standard pickup truck and trailer
- Weed eaters
- Pole saws
- Chain saws
- Tractor with brush hog attachment

#### 6. Quantities

It is the responsibility of the vendor to perform a site visit of each individual road/project to verify the measurements and determine the extent of the services required. The side clearance for each roadway will vary based on the amount of right of way for each said road/project.

Any discrepancies concerning measurements and/or work limits shall be resolved and confirmed by the Project Manager prior to beginning any work. The vendor shall not be entitled to any additional compensation for the extra work performed if the vendor completes the work without the confirmation from the Project Manager.

### LOCATIONS

#### CR 25 (7804)

Beginning at US 27/441 and ending at the Marion County Line (approximately 2.5 miles). The side clearance along this road shall be twenty-four (24) feet from the edge of pavement. After trimming is completed, there should be a clearly defined tree trunk/fence line.

#### CR 452 (6743)

Beginning at CR 44 and ending at Marion County Line (approximately 9.3 miles). The side clearance along this road shall be thirty-eight (38) feet from the edge of pavement. After trimming is completed, there should be a clearly defined tree trunk/fence line. There is an area with cedar trees that will require special attention.

#### CR 33 (2409)

Beginning at SR 50 and ending at the Florida Turnpike overpass (approximately 9.8 miles). The side clearance along this road shall be twenty (20) feet from the edge of pavement. After trimming is completed, there should be a clearly defined tree trunk/fence line. There is an area with cedar trees that will require special attention.

**\*\* CEDAR TREES SHALL NOT BE TRIMMED AT CR 452 NOR AT CR 33**

## **EXHIBIT B:**

### **PUBLIC WORKS ADDITIONAL TERMS AND CONDITIONS**

1. Intent of Contract Documents
2. Errors and Omissions
3. Emergencies
4. Compliance with Occupational Safety and Health / Hazardous Materials
5. General Inspection Requirements
6. Project Manager
7. Contract Time and Time Extension
8. Hours of Operation
9. Changes in Work
10. Claims and Disputes
11. Lands for Work and Access Thereto
12. Maintenance of Traffic
13. Underground Utilities
14. Protection of Existing Structures, Utilities, Work and Vegetation
15. Equipment
16. Sanitation
17. Other Work
18. Bonds
19. Final Inspection
20. Final Acceptance
21. Measurement and Payment
22. Warranty

## **1. INTENT OF CONTRACT DOCUMENTS**

- A. It is the intent of the contract documents to describe a functionally complete project (or portion thereof) in accordance with the contract documents. Any work, materials, or equipment that may reasonably be inferred from the contract documents as being required to produce the intended result shall be supplied whether or not specifically called for. When words which have a well-known technical or trade meaning are used to describe work, material or equipment, such words shall be interpreted in accordance with that meaning. Reference to standard specifications, manuals or codes of any technical society, organization or association, or to the laws or regulations of any governmental authority having jurisdiction over the project, whether such reference be specified or by implication, shall mean the latest standard specification, manual, code, law or regulation in effect at the time the work is performed, except as may be otherwise specifically stated herein.
- B. The contract documents and all referenced standards cited therein are essential parts of the contract requirements. A requirement occurring in one is as binding as though occurring in all. They are intended to be complementary and to describe and provide for a complete project.
- C. If drawings are provided, they intended to show general arrangements, design and extent of work. In the event of a discrepancy between or among the drawings, specifications or other contract document provisions, the vendor shall be required to comply with the provision which is the more restrictive or stringent requirement upon the vendor, as determined by the Project Manager.

## **2. ERRORS AND OMISSIONS**

The vendor shall not take advantage of any apparent error or omission in the contract documents. If any error or omission appears in the contract documents, the vendor shall immediately notify the Project Manager in writing of such errors or omissions. In the event the vendor knows or should have known of any error or omission and fails to provide such notification, the vendor shall be deemed to have waived any claim for increased time or compensation the vendor may have had, and the vendor shall be responsible for the results and the costs of rectifying any such error or omission.

## **3. EMERGENCIES**

- A. The vendor shall have a responsible person available at or reasonably near the County on a twenty four (24) hour basis, seven (7) days a week, who may be contacted in emergencies and in cases where immediate action must be taken to maintain traffic or to handle any other problem that might arise. The vendor's responsible person for supervision of emergencies shall speak and understand, both verbally and in writing, the English language. The vendor shall submit to the Project Manager, the phone numbers and names of personnel designated to be contacted in cases of emergencies. Included in this list shall be twenty four (24) hour contact phone numbers for all subcontractors, if any, performing work under this agreement. This list shall contain the name of their supervisors responsible for work pertaining to this contract.
- B. In the event of an emergency affecting the safety or protection of persons, or the work or property at the project site or adjacent thereto, the vendor, without special instruction or authorization from the Project Manager is obligated to act to prevent threatened damage, injury or loss. The vendor shall contact the Project Manager as soon as possible by telephone and with written notice as soon as possible, but no later than twenty-four (24) hours after the occurrence of the emergency, if the vendor believes that any significant changes in the work or variations from the contract documents. If the Project Manager determines that a change in the contract documents is required because of the action taken in response to an emergency, a new Project Order Form shall be issued to document the consequences of the changes or variations. If the vendor fails to provide written

notice within the twenty four (24) hour limitation noted above, the vendor shall be deemed to have waived any right it otherwise may have had to seek an adjustment to the contract amount or an extension to the contract time.

**4. COMPLIANCE WITH OCCUPATIONAL SAFETY AND HEALTH/HAZARDOUSE MATERIALS**

- A. Vendor certifies that all material, equipment, etc., to be used in an individual project meets all Occupational Safety and Health Administration (OSHA) requirements. The vendor further certifies that if any of the material, equipment, etc., is found to be deficient in any OSHA requirement in effect on the date of delivery, all costs necessary to bring the material, equipment, etc., into compliance with the aforementioned requirements shall be borne by the vendor. All standard equipment, work operations, safety equipment, personal protective equipment, and lighting required or mandated by State, Federal, OSHA, or Americans with Disabilities Act (ADA) regulations must be provided and used by the vendor and its employees.
- B. Any chemical item supplied under this contract shall be accompanied by a Material Safety Data Sheet (MSDS). The MSDS shall include the following information:
  - 1. The chemical name and the common name of the toxic substance.
  - 2. The hazards or other risks in the use of the toxic substance, including the potential for fire, explosion, corrosiveness and reactivity.
  - 3. The known acute and chronic health effects of risks from exposure, including the medical conditions which are generally recognized as being aggravated by the exposure to the toxic substances.
  - 4. The primary route of entry and symptoms of exposure.
  - 5. The proper precautions, handling practices, necessary personal protective equipment, and other safety precautions in the use of or exposure to the toxic substances, including appropriate emergency treatment in case of overexposure.
  - 6. The emergency procedure for spills, fire, disposal and first aid.
  - 7. A description in lay terms of the known specified potential health risks posed by the toxic substance intended to alert any person reading this information.
  - 8. The year and month, if available, that the information was compiled, and the name, address, and emergency telephone number of the manufacturer responsible for preparing the information.
- C. Any spillage of hazardous chemicals and/or wastes caused by the vendor must be reported immediately to the proper authority and the Project Manager. All spills shall be cleaned up in accordance with all local, State, and Federal regulations. The cost of cleanup of any spillage of hazardous chemicals caused by the vendor shall be the sole responsibility of the vendor and the County will share no responsibility for these costs. A copy of the completed compliance order with local, State, and Federal agencies shall be given to the County.
- D. If any hazardous chemicals or conditions are discovered by the vendor during the normal work operation, it is the responsibility of the vendor to immediately contact the Project Manager with a description and the location of the condition.
- E. The Project Manager or other County representatives may periodically monitor the work for safety. Should there be safety and/or health violations, the County's representative may have the duty to require the vendor to correct the violation in an expeditious method. If there is any situation that is deemed unsafe by the Project Manager or other County representatives, the project

will be shut down immediately upon notice and will not resume work until the unsafe condition has been remedied.

- F. Should the work site be in a hazardous area, the County shall take reasonable actions to furnish the vendor with information concerning hazards such as the types of the identification of known toxic material, machine hazards, Material Safety Data Sheets, or any other information that would assist the vendor in the planning of a safe work site. The vendor retains the ultimate responsibility to ensure all work is performed in a manner consistent with all applicable safety standards and directives.
- G. The vendor shall be aware that while working for the County, representatives from agencies such as the United States Department of Labor, Occupational Safety and Health Administration (OSHA), and the Division of Safety, State of Florida, are invitees and do not need to have warrants or permission to enter the work site.
- H. The vendor shall designate a competent person of its organization whose duty shall be the prevention of accidents. This person shall be literate and able to communicate fully in the English language because of the necessity to read job instructions and signs, as well as the need for conversing with management personnel. This person shall be the Vendor's Superintendent unless otherwise designated in writing to the Project Manager. All communications to the Superintendent shall be binding as if given to the vendor.

##### **5. GENERAL INSPECTION REQUIREMENTS**

- A. Due to the nature of this Agreement, The County shall at the time of establishment of need, require the vendor to become fully informed as to the nature and extent of the work required and its relation to any other work in the area, including possible interference from other site activities. Arrangement for vendor's inspection of facilities or sites and/or activity schedules may be secured from the user department. Failure to visually inspect the facilities or sites may be cause for disqualification of vendor on that individual project.
- B. Vendor shall furnish the Project Manager with every reasonable facility for ascertaining whether the work performed and/or materials used are in accordance with the requirements and intent of the specifications. If the Project Manager so requests, the vendor shall, at any time before final acceptance of the work, remove or uncover such portions of the finished work as may be directed. After examination, the vendor shall restore the uncovered portions of the work to the standard required by the specifications. Should the work exposed or examined prove unacceptable in the opinion of the Project Manager, the uncovering or removal, and the replacing of the covering or making good of the items removed, shall be at the vendor's expense. However, should the work exposed or examined prove acceptable in the opinion of the Project Manager, the uncovering or removing and the replacing or the covering or making good of the items removed, shall be paid for by the County.
- C. If during or prior to the operations, the Project Manager should fail to reject defective work or materials, whether from lack of discovery of such defect, or for any other reason, such initial failure to reject shall in no way prevent the Project Manager's later rejection when such defect is discovered, nor obligate the County to final acceptance or payment, and the vendor shall make no claim for losses suffered due to any necessary removals or repairs of such defects.
- D. If during or prior to the operations, the Project Manager, rejects any portion of the work on the grounds that the work or materials are defective, the Project Manager will give the vendor notice

of the defect. The vendor shall then have seven (7) calendar days from the date the notice is received to correct the defective condition. If the defect has not been corrected within seven (7) calendar days, the Project Manager will send a second written notice to the vendor giving the vendor another seven (7) calendar days to correct the defect. If the vendor fails to correct the deficiency within the second seven (7) calendar days after receipt of the notice, the County may take whatever action is necessary, including correcting the deficient work utilizing another vendor or terminating the contract.

- E. Should the vendor fail or refuse to remove and renew any defective material used or work performed, or to make any necessary corrections in an acceptable manner and in accordance with the requirements of the specifications, within the time indicated in writing, the County, will have the authority to cause the unacceptable or defective materials or work to be repaired, removed and replaced, as may be necessary, at the vendor's expense. Any expense incurred by the County, whether direct, indirect or consequential, in making the repairs, removals, or replacements, which the vendor has failed or refused to make, shall be paid for out of any monies due or which may become due the vendor, or may be charged against the contract bond, if any. A Change Order will be issued, incorporating the necessary revisions to the contract documents, including an appropriate decrease to the contract amount. Such direct, indirect and consequential costs shall include, such as, but not be limited to: costs of repair and replacement of work of others destroyed or damaged by correction, removal or replacement of work of the vendor's defective work and additional compensation due the County. The vendor shall not be allowed an extension of the contract time because of any delay in performance of the work attributable to the exercise by the County of the County's rights and remedies hereunder.
- F. When the United States Government or the State of Florida is to pay a portion of the cost of the project, the work will be subject to such inspection by Federal or State representatives as deemed necessary, but such inspections will in no case make the United States Government or the State of Florida a party to this contract.
- G. All work performed and all materials furnished shall be in reasonably close conformity with the tolerances indication in the specifications. In the event the Project Manager finds the materials or finished product in which the materials are used and not within reasonably close conformity to the specifications, the Project Manager will then make a determination if the work shall be accepted and remain in place. In this event, the Project Manager will document the basis of acceptance by a Change Order which will provide for an appropriate deduction as needed in the contract price for such work or materials as the Project Manager deems necessary to conform to the determination based on the Project Manager's professional judgment.

## **6. PROJECT MANAGER**

It is agreed to by the parties that the Project Manager will decide all questions, difficulties, or disputes, of whatever nature, which may arise relative to the interpretation of the plans, construction, prosecution and fulfillment of the scope of services and as to the character, quality, amount and value of any work done, and materials furnished, under or by reason of this Agreement. The Project Manager may appoint representatives as desired that will be authorized to inspect all work done and all materials furnished.

## **7. CONTRACT TIME AND TIME EXTENSIONS**

- A. Unless otherwise provided, contract time shall mean the number of consecutive business days from the commencement date noted in the properly executed purchase order to the date on which all work is to be completed. The vendor shall diligently pursue the completion of the work and

coordinate the work being done on the project by its subcontractors and material suppliers, as well as coordinate the vendor's work with the work of other contractors so that the vendor's work or the work of others shall not be delayed or impaired by any act or omission of any act by the vendor. The vendor shall be solely responsible for all means, methods, techniques, sequences and procedures, as well as coordination of all portions of the work under the contract documents.

- B. Should the vendor be obstructed or delayed in the prosecution of or completion of the work as a result of unforeseeable causes beyond the control of the vendor, and not due to the vendor's fault or neglect, the vendor shall notify the Project Manager by telephone as soon as possible and in writing within two (2) business days after the commencement of such delay, stating the cause or causes thereof, or be deemed to have waived any right which the vendor may have had to request a time extension.
- C. If the vendor complies with the two (2) business days notice requirement, the Project Manager will ascertain the fact and the extent of the delay being claimed and recommend an extension to the contract time when, in the Project Manager's sole judgment, the findings of fact justify such an extension. The vendor shall cooperate with the Project Manager's investigation of the delay by providing any schedules, correspondence or other data that may be required to complete the findings of fact. Extensions to the contract time may be granted for only those delays which impact the vendor's schedule. Extensions of contract time, if approved by the Project Manager, must be authorized in writing.
- D. Weather events are specifically excluded as an excused cause for delay under this agreement and no additional days shall be given for rain days.
- E. The County and the vendor recognize that, since time is of the essence for this agreement, the County will suffer financial loss if the work is not completed within the time specified. The County will be entitled to assess, as Liquidated Damages, but not as a penalty, for each calendar day that the project continues after the scheduled completion date. The project shall be deemed to be completed on the date the work is considered complete to the satisfaction of the County. The vendor hereby expressly waives and relinquishes any right which it may have to seek to characterize the Liquidated Damages as a penalty. The parties agree that the Liquidated Damages sum represents a fair and reasonable estimate of the County's actual damages at the time of contracting if the vendor fails to complete the work in a timely manner. The Liquidated Damages shall be as follows:

| <u>Specific Project Amount</u>               | <u>Daily Charge per Calendar Day</u> |
|--|--------------------------------------|
| \$50,000 and under.....                      | \$642                                |
| Over \$50,000 but less than \$250,000.....   | \$758                                |
| \$250,000 but less than \$500,000.....       | \$966                                |
| \$500,000 but less than \$2,500,000.....     | \$1,532                              |
| \$2,500,000 but less than \$5,000,000.....   | \$2,374                              |
| \$5,000,000 but less than \$10,000,000.....  | \$3,226                              |
| \$10,000,000 but less than \$15,000,000..... | \$4,624                              |
| \$15,000,000 but less than \$20,000,000..... | \$4,276                              |
| \$20,000,000 and over.....                   | \$7,864 plus 0.00005                 |
| of any amount over \$20 million              |                                      |

- F. County shall retain from the compensation to be paid to vendor the above described sum.

## 8. HOURS OF OPERATION

- A. Unless otherwise specified in the technical specifications, all work performed shall be accomplished between the hours of 7:00 A.M. and 5:00 P.M., Monday through Friday, and no work shall be performed on Saturdays, Sundays, or County Holidays, unless permission to work has been requested in writing by the vendor and approval, in writing, has been granted by the Project Manager. Request for permission to work must be received by the Project Manager no less than two (2) days prior to the requested work day. The exception to this pre-approval requirement would be in the case of an emergency in which the emergency specification as outlined in Section 3, Emergencies, would apply. County Holidays are as follows:

New Year's Day  
Martin Luther King, Jr. Day  
Presidents' Day  
Memorial Day  
Independence Day  
Labor Day  
Veteran's Day  
Thanksgiving Day  
Day after Thanksgiving  
Christmas Day

- B. Special schedules may be established if necessary because of problems with noise or similar problems affecting citizens in homes or buildings adjacent to the roadways.
- C. Under no circumstance, except in the case of an emergency, will permission be given for work on New Year's Day, Independence Day, Thanksgiving Day or Christmas Day. If the official holiday is on a Saturday, the County observes the holiday on Friday and if the holiday is on Sunday the County observes the holiday on Monday. The vendor shall not be allowed to work on the alternate day for the above mentioned holidays. The Project Manager may consider approval in accordance with the provisions stated above, for work on the following days: Martin Luther King, Jr. Day, Memorial Day, Labor Day, Veterans Day, or the Friday after Thanksgiving.
- D. When the vendor requests and is approved for Saturday, Sunday or Holiday work, the County may assess the vendor the sum of Two Hundred Fifty Dollars (\$250.00) per man per day for each Saturday, Sunday or recognized Holiday worked or planned to work. These fees will be deducted from the final invoice.

## **9. CHANGES IN WORK**

- A. The County may at any time, by issuance of a Change Order executed in accordance with the County's Purchasing Policies and Procedures make changes within the general scope of this Agreement. If additional work or other changes are required an offer will be requested from the vendor. Upon negotiation of the offer, execution and receipt of the Change Order, the vendor shall commence performance of the work as specified.
- B. The vendor shall not commence any additional work or other changes covered by the Scope of Services for the individual project without an executed Change Order. If the vendor performs additional work beyond the specific requirements of this Agreement without an executed Change Order, it shall be at the vendor's own risk. The County assumes no responsibility for any additional costs for work not specifically authorized by an executed Change Order.

## **10. CLAIMS AND DISPUTES**

- A. Claims by the vendor shall be made in writing to the Project Manager within two (2) business days after the commencement of the event giving rise to such claim or else the vendor shall be deemed



to have waived the claim. Written supporting data shall be submitted to the Project Manager within ten (10) calendar days after the occurrence of the event, unless the County grants additional time in writing, or else the vendor shall be deemed to have waived the claim. All claims shall be priced in accordance with the provisions of the section in this document entitled "Changes in Work".

- B. The vendor shall proceed diligently with its performance as directed by the County, regardless of any pending claim, action, suit, or administrative proceeding, unless otherwise agreed to by the County in writing. The County shall continue to make payments on the undisputed portion of the contract in accordance with the contract documents during the pendency of any claim.

1. Claims by the vendor shall be resolved in the following manner:

- a. Upon receiving the claim and supporting data, the Project Manager will review the claim, or if the Project Manager is not a County employee, will forward the claim to the County. The County will within fifteen (15) business days respond to the claim in writing stating that the claim is either approved or denied. If denied, the County will specify the grounds for denial. The vendor shall then have fifteen (15) calendar days in which to provide additional supporting documentations, or to notify the County that the original claim stands as is.
- b. If the claim is not resolved, the County may, at its option, choose to submit the matter to mediation. A mediator shall be mutually selected by the parties and each party shall pay one-half (1/2) the expense of mediation. If the County declines to mediate the dispute, the vendor may bring an action in the County or Circuit Court sitting in Lake County, Florida.

2. Claims by the County against the vendor shall be made in writing by the Project Manager as soon as the event leading to the claim is discovered by the County. Written supporting data shall be submitted by the Project Manager. All claims shall be priced in accordance with the provisions of the section in this document entitled "Changes in Work". The party to whom the Project Manager's determination is not in favor of may appeal the determination as set forth in subsection (2) above.

3. Arbitration shall not be considered as a means of dispute resolution.

## **11. LANDS FOR WORK AND ACCESS THERETO**

- A. County shall furnish and define the limits of land for access to the work site and for the site proper. No storage or equipment shall take place on private property unless the vendor has a letter from the landowner authorizing the vendor to do so. A copy of the letter shall be provided to the County. The vendor shall supply the Project Manager any such letter before the equipment is placed there. Any and all other lands required by the vendor shall be procured by the vendor at the vendor's expense.
- B. As the work progresses, the vendor shall keep the site reasonably clear of rubbish, trash, waste, and other disposable materials on a daily basis. If the vendor allows the site to become littered and unsightly, any payments otherwise due may be withheld until the vendor cleans up the site to the satisfaction of the County. If the vendor fails to clean up the site, the County may choose to clean up the site at the vendor's expense.

- C. The vendor shall, absent written permission from a private property owner, confine all storage of materials, equipment, and the operations of workers to the project site and land and areas identified in and permitted by the contract documents. The vendor shall assume full responsibility for any damage to any such land or area or to the owner or occupant thereof, or any land or areas contiguous thereto, resulting from the performance of the work. At the completion of the work, the vendor shall remove all debris, rubbish and waste materials from and about the project site, as well as all tools, appliances, equipment, machinery, and surface materials and shall leave the project site clean. All service and supply operations shall be conducted outside the clear zone unless the vendor has proper authorization and traffic control. No supply vehicles shall enter the median for any purpose. No service vehicles shall enter the median except when necessary to repair or remove inoperable equipment.
- D. Any equipment/material left within the right of way shall be outside the clear zone. No equipment/material shall be parked overnight in the median.

## 12. MAINTENANCE OF TRAFFIC (MOT)

Unless otherwise specified, the standard specifications to be used for the work shall be the most applicable and the most stringent of the following:

- A. Maintenance of traffic shall be the responsibility of the vendor, is part of the vendor's proposal price, and shall conform to FDOT's most current editions of "STANDARD SPECIFICATIONS FOR ROAD AND BRIDGE CONSTRUCTION", 2013 edition (or latest edition), or FDOT's "ROADWAY AND TRAFFIC DESIGN STANDARDS", 2002 (or latest edition), or FDOT's "MANUAL OF UNIFORM MINIMUM STANDARDS FOR DESIGN, CONSTRUCTION AND MAINTENANCE FOR STREETS AND HIGHWAYS," 2002 (or latest edition), Federal Highway Administration (FHWA) "MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES (MUTCD)," 2009 (or latest edition), and all supplemental specifications thereto. These documents can be ordered from FDOT, Maps and Publications Department, 605 Suwannee Street, Tallahassee, Florida 32399-0450, or by going to the FDOT website at: [www.dot.state.fl.us/mapsandpublications](http://www.dot.state.fl.us/mapsandpublications).
- B. All costs associated with MOT must be included in the vendor's proposal price. No separate line items for MOT will be included in the cost estimate. If the vendor does not comply with the FDOT and the FHWA (i.e. signs, qualified flaggers, and/or barricades), the County reserves the right to direct the vendor to cease operation until deficiencies are corrected. In addition, no road closures shall be allowed except in the case of emergencies.
- C. If the vendor feels that assistance from an off duty police officer is needed, it shall be the responsibility of the vendor to hire and pay for this service.
- D. All lane closures shall have the prior approval of the Project Manager.
- E. The foregoing requirements are to be considered as minimum and the vendor's compliance shall in no way relieve the vendor of final responsibility for providing adequate traffic control devices for the protection of the public and vendor's employees throughout the work area.
- F. The use of public roads and streets by the vendor shall provide a minimal inconvenience to the public and traffic. Furthermore, if the vendor is utilizing the road by driving the slow moving equipment, the operator shall allow no more than three (3) vehicles to be backed up behind them at any time before pulling to the side to let traffic pass.

### **13. UNDERGROUND UTILITIES**

Any required ground digging or subsurface work shall be done in accordance with Chapter 556, Florida Statutes. It shall be the responsibility of the vendor to have all underground utilities located before any work shall begin. This can be done by contacting Sunshine State One Call. They may be reached by calling 1-800-432-4770. The repairs of any damaged underground utilities as a result of the work being performed by the vendor shall be the responsibility of the vendor. The proper utility company shall be contacted immediately to expedite the repairs, if damage has occurred. The County shall also be notified by telephone at the earliest opportunity and shall be followed up with a written explanation of the incident within two (2) days.

### **14. PROTECTION OF EXISTING STRUCTURES, UTILITIES, WORK AND VEGETATION**

- A. The vendor shall preserve and protect all existing vegetation such as trees, shrubs, and grass on or adjacent to the site which do not unreasonably interfere with the project as may be determined by the Project Manager. The vendor shall be responsible for all unauthorized cutting or damages of trees and shrubs, including damage due to careless operation of equipment, stockpiling of materials or tracking of grass areas by equipment.
- B. The vendor shall fully protect the work from loss or damage and shall bear the cost of any such loss or damage until final payment has been made. If the vendor or any one for whom the vendor is legally liable is responsible for any loss or damage to the work, or other work or materials of the County or County's separate contractors, the vendor shall be charged with the same, and any monies necessary to replace such loss or damage shall be deducted from any amounts due the vendor.
- C. The vendor shall not disturb any benchmark established by the County with respect to the project. If the vendor, or its subcontractors, agents or any one for whom the vendor is legally liable, disturbs County benchmarks, the vendor shall immediately notify the Project Manager. The County shall have the benchmarks re-established and the vendor shall be liable for all costs incurred by the County associated therewith. Such costs shall be deducted from any amounts due the vendor.
- D. During the period of production of work and the warranty period the vendor shall be responsible for processing any and all claims for property damage and or bodily injury caused by the failure of the work including, such as but not limited to: motor vehicles or pedestrians. The vendor shall be responsible for the payment of all property damage and bodily injury claims and agrees to save and hold harmless the County from all such claims. Claims not handled by the vendor or their representative in the proper manner, will be settled by the County. The County shall recover all costs from the vendor.
- E. All items damaged as a result of vendor or subcontractor operations, such as but not limited to: sidewalks, seating, curbs, pipes, drains, water mains, pavement, mail boxes, turf, County signs or other property owned by the County or private landowner, shall be either repaired or replaced by the vendor, at their expense, in a manner prescribed by and at the sole satisfaction of the Project Manager. Any claims submitted to the County, such as but not limited to: from utility companies or landowners, which are determined to be the result of damage done by the vendor, shall be the responsibility of the vendor. The County reserves the right to pay any such claims and deduct such amount from the vendor's invoice. Repairs, or receipt of repairs, will be completed and submitted to the County prior to submission of the vendor's invoice for work accomplished. If the

repair is not in accordance with County standards, the County shall repair the items and deduct the associated cost from the amount due the vendor.

- F. The vendor shall replace any asphalt that has been damaged as a result of hydraulics spilled from their equipment.
- G. Complaints shall be addressed within two (2) business days and a written report submitted to the Project Manager outlining actions taken to correct the complaint. The vendor shall notify the County immediately of any complaints given directly to the vendor.
- H. If in the course of completing work as part of this contract there is an accident that involves the public, the vendor shall as soon as possible, inform the Project Manager of the incident by telephone. The vendor shall follow up in writing within two (2) business days of the incident. If Law Enforcement was involved and has written a report, the vendor shall forward a copy of the report to the Project Manager.
- I. The vendor shall be responsible for re-grading and re-sodding any areas that are disturbed by the vendor during the course of the work being completed.

#### **15. EQUIPMENT**

- A. The vendor shall furnish equipment of a type and quantity to perform the work satisfactorily within the time specified herein. The County reserves the right to inspect all equipment before it is placed in or while it is in service. If in the opinion of the Project Manager, the vendor has insufficient equipment on the job to satisfactorily complete the work within the required time, the vendor shall provide additional equipment as directed by the Project Manager. All equipment may be inspected and approved by the Project Manager before it is placed in service. If at any time, the Project Manager before it is placed in service. If at any time, the Project Manager determines that any equipment is deficient in any way, the vendor shall remove the equipment from service immediately, and the equipment shall remain out of service until the deficiency is corrected to the satisfaction of the Project Manager. Inspection and approval of the vendor's equipment by the Project Manager shall not relieve the vendor of the responsibility or liability for injury to persons or damage to property caused by the operation of the vendor's equipment, nor shall it relieve the vendor of the responsibility to meet the established time for the completion of the service.
- B. All safety devices installed by the manufacturer shall be in place and in proper working order at all times. At a minimum, all equipment used within the right of way shall be equipped with a slow moving vehicle sign, and properly operating amber flashing or white strobe light.
- C. The equipment used must be in good repair and operating condition at all times. This service requires that all equipment shall be environmentally safe, with no oil leaks, blowing fuel, or leaking hydraulic lines.

#### **16. SANITATION**

The vendor shall provide and maintain adequate sanitary conveniences for the use of persons employed for this project. These conveniences shall be maintained at all times without nuisance, and their use shall be strictly enforced. The location of these conveniences shall be subject to the Project Manager's approval.

#### **17. OTHER WORK**

- A. The vendor will cooperate with County personnel or anyone who may be engaged in authorized work prior to final completion of the project.
- B. The vendor shall cooperate with the owners of any underground or overhead utility lines in their removal and rearrangement operations in order that these operations may progress in a reasonable manner and that service rendered by these parties will not be interrupted.
- C. The County may perform other work related to the project site or, in the general vicinity of the site by the County's own forces, have other work performed by utility owners or other direct contracts. If other work is not identified in the contract documents and if the vendor believes that such performance will involve additional expenses to the vendor or require additional time, the vendor shall send written notice of that fact to the County and the Project Manager within two (2) business days of being notified of the other work. If the vendor fails to send the above required notice, the vendor will be deemed to have waived any rights it otherwise may have had to seek an extension to the contract time or adjustment to the contract amount. The vendor shall afford each utility owner and other contractors (or the County, if the County is performing additional work with the County's employees) proper and safe access to the site and a reasonable opportunity for the introduction and storage of materials and equipment and the execution of such work and shall properly connect and coordinate its work with theirs. The vendor shall not endanger any work of others by cutting, excavating, or otherwise altering their work and will only cut or alter their work with the written consent of the Project Manager and the others whose work will be affected.
- D. If any part of the vendor's work depends, for proper execution or results, upon the work of any other contractor other than a subcontractor or utility owner, the vendor shall inspect and promptly report to the Project Manager, in writing two (2) business days, any delays, defect or other problems in such other work that renders it impossible for the vendor to obtain proper execution or results. The vendor's failure to report will constitute an acceptance of the other work as fit and property for integration with the vendor's work.

#### **18. BONDS**

Not applicable to this solicitation.

#### **19. FINAL INSPECTION**

- A. Maintenance of Work. The vendor shall maintain all work in as-new condition until the final inspection is completed and the work accepted by the Project Manager.
- B. Upon notice from the vendor that the service has been completed, the Project Manager will make a final inspection within five (5) business days of receipt of notification. The Project Manager will notify the vendor if necessary of any deficiencies with the project. The vendor shall correct all deficiencies before final acceptance and payment is made. If the deficiencies have not been completed within the contracted time, the Project Manager may send out a notification notifying vendor of assessment of Liquidated Damages that can be applied for any day over the time allowed per the contract.
- C. The vendor shall notify the Project Manager when the deficiencies have been completed and corrected. If the deficiencies are not corrected when inspected, the vendor shall be notified again in writing about any deficiencies. Once the repairs have been corrected by the vendor, the Project Manager shall make another inspection. There shall be an eighty dollar (\$80.00) inspection fee assessed to the vendor for this inspection and any re-inspection that may be required after that. The fee is assessed to offset the additional costs associated with County labor and vehicle usage.

required for unnecessary inspections. The fee(s) shall be deducted from the final invoice for that release order.

**20. FINAL ACCEPTANCE**

- A. The contract will be considered complete when all work has been completed and has been accepted by the County and the Project Manager. The vendor will then be released from further obligation except as set forth in the warranty and/or bonds in this Contract.
- B. The County reserves the right, should an error be discovered in the partial or final estimates, or should proof of defective work or materials used by or on the part of the vendor be discovered after the final payment has been made, to claim and recover from the vendor or its surety, or both, by process of law, such sums as may be sufficient to correct the error or make good the defects in the work and materials, including any fees or costs associated with the additional services of the Project Manager.

**21. MEASUREMENT AND PAYMENT**

- A. All work completed under the terms of this contract shall be paid as a unit price payment at the cost as established in Section 4, Pricing/Certifications/Signatures, Pricing Section and as discussed in Section 2, Scope of Services.
- B. The vendor shall accept compensation provided under the terms of this contract as full payment for furnishing all materials and for performing all work contemplated and embraced under this contract. Such compensation shall also be for any and all loss or damage arising out of the nature of the work or from the action of the elements, or from any unforeseen difficulties or obstructions encountered during the contract period until final acceptance by the County.

**22. WARRANTY**

- A. The vendor shall obtain and assign to the County all express warranties given to the Vendor or any subcontractors by any material suppliers, equipment or fixtures to be incorporated into the Project. The Vendor warrants to the County that any materials and equipment furnished under the Contract Documents shall be new unless otherwise specified, and that all work shall be of good quality, free from all defects and in conformance with the Contract Documents. The Vendor further warrants to the County that all materials and equipment furnished under the Contract Documents shall be applied, installed, connected, erected, used, cleaned and conditioned in accordance with the instructions of the applicable manufacturers, fabricators, suppliers or processors except as otherwise provided for in the Contract Documents. Unless otherwise specified, if within eighteen (18) months after final completion and acceptance, any work is found to be defective or not in conformance with the Contract Documents, the Vendor shall correct it promptly after receipt of written notice from the County. The Vendor shall also be responsible for and pay for replacement or repair of adjacent materials or work which may be damaged as a result of such replacement or repair. These warranties are in addition to those implied warranties to which the County is entitled as a matter of law.
- B. The sod shall be warranted to be free of noxious and invasive weeds, disease, and insects. If pests and/or noxious weeds manifest themselves within sixty (60) days of placement of the sod, the vendor shall treat the affected areas. The process for treating these areas shall be approved by the Project Manager. If the sod does not meet any of the specifications within this document, the vendor shall be responsible to replace it at no expense to the County. It shall be the responsibility of the vendor to insure that the sod is sufficiently established as previously described within these

specifications. If the sod dies or does not become established the vendor shall be responsible for the replacement at no cost to the County.

### EXHIBIT C: PRICING

| Project Site/Road Name     | Number of Days to Complete | Unit Price          |
|----------------------------|----------------------------|---------------------|
| County Road 46A            |                            |                     |
| County Road 42 (East)      |                            |                     |
| County Road 42 (West)      |                            |                     |
| County Road 44A            |                            |                     |
| County Road 25             | 5                          | \$6,750.00          |
| County Road 452            | 13                         | \$22,500.00         |
| County Road 33             | 14                         | \$22,500.00         |
| County Road 48             |                            |                     |
| <b>TOTAL ALL PROJECTS:</b> |                            | <b>\$129,250.00</b> |

- The County reserves the right to award each project site individually to a vendor as determined to be in the best interest of the County. Having the lowest unit price for one or more project sites will not guarantee that a vendor shall be awarded any particular work.